

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6739

BILL NUMBER: SB 393

NOTE PREPARED: Jan 6, 2010

BILL AMENDED:

SUBJECT: Restitution for Victims of Securities Violations.

FIRST AUTHOR: Sen. Waltz

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Securities Restitution Fund:* This bill establishes the Securities Restitution Fund to provide restitution assistance to victims and certain family members of victims for monetary injuries from securities violations. It provides that the fund consists of amounts: (1) from certain funds received for deposit in the Securities Division Enforcement Account; and (2) appropriations from the General Assembly. It requires 10% of funds received after June 30, 2010, for deposit in the Securities Division Enforcement Account to be deposited into the Securities Restitution Fund, and it transfers \$2 M from the Securities Division Enforcement Account to the Securities Restitution Fund on July 1, 2010. The bill also continually appropriates money from the Securities Restitution Fund to the Securities Division for the purposes of: (1) awarding restitution assistance under this chapter; and (2) paying expenses incurred in administering this chapter.

Securities Division: The bill requires the Securities Division to: (1) prescribe a form for processing applications for restitution assistance; and (2) determine whether a claim for restitution assistance should be awarded. It establishes requirements for and limitations on awarding restitution assistance to victims of securities violations.

Penalty: The bill makes it a Class C felony for a person to make or cause to be made: (1) in any document filed with the Securities Commissioner or Securities Division; or (2) in any proceeding, investigation, or examination; under the restitution assistance for victims of a securities violations provisions any statement that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Securities Division:* The bill requires the Securities Division to administer a restitution assistance program by prescribing a form for processing applications for restitution assistance, which can be filed in person, through the Securities Division's website, or by mail. The Securities Division will have to process the forms and determine whether a person's claim for restitution assistance should be awarded. The bill creates the Securities Restitution Fund, which will fund restitution assistance awards as well as the Securities Division's expenses in administering this new program.

Penalty Provision: A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,194 in FY 2009. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Securities Restitution Fund:* The bill provides that 10% of funds received beginning in FY 2011 for deposit in the Securities Division Enforcement Account will be deposited in the Securities Restitution Fund. Also, this bill transfers \$2 M from the Securities Division Enforcement Account to the Securities Restitution Fund in FY 2011. Money in the fund does not revert to the state General Fund at the end of a fiscal year.

Background Information - Ending balances and revenues from fees for the Securities Division Enforcement Account for FY 2005 through FY 2009 are provided below.

Fiscal Year	Ending Balance	Revenue
FY 2005	\$7.5 M	\$58,000
FY 2006	\$7.0 M	\$837,000
FY 2007	\$5.3 M	\$523,000
FY 2008	\$4.1 M	\$64,000
FY 2009	\$5.3 M	\$2.5 M

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Securities Division, Secretary of State; DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC; Auditor's Data.

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